

To: Utah Public Service Commission

From: Michele Beck, Director  
Utah Committee of Consumer Services

Date: June 1, 2007

Re: Docket No. 07-R100-01; Practice and Procedure Governing Formal Hearings

The Utah Committee of Consumer Services welcomes the opportunity to comment on the Commission's proposal to adopt new and amended rules for the practice and procedure for formal hearings. The Committee staff, its attorneys, and I have at length discussed the existing rules and practices. Our attorneys have drafted proposed changes and additions. At this time, however, I believe that a general outline of our review and discussion is most responsive to the Commission's May 2, 2007 Notice of Public Meeting.

Should the Commission commence a rulemaking proceeding, the Committee's and my primary goal will be to make Commission proceedings more understandable and accessible to the Committee's constituents; residential, small commercial and agricultural utility consumers. Procedural rules that encourage fairness, timeliness, and full disclosure will encourage greater public participation as public witnesses or interveners. Rules that enhance professionalism and fairness will create greater trust on the part of the public.

What follows is a summary of the rule changes that we have discussed. It is certainly not as detailed as the confidential drafts our counsel has prepared, nor is the list comprehensive. We want to tailor our specific requests and suggestions to the scope of the rulemaking as the Commission defines it.

#### **R746-100-2. Definitions.**

Draft new definitions such as "public witness" to clarify who may be a public witness and the extent of non-party participation in proceedings leading up to the hearing.

#### **R746-100-3. Pleadings.**

Adopt rules pertaining to the signing of pleadings and the certification that the pleadings, including pre-filed testimony.

June 1, 2007

Clarify and refine the obligation of all parties to ensure that pleadings fully disclose positions taken and relief requested, while also allowing parties to supplement pleadings in a timely manner.

Specify the contents of pleadings filed by utilities that have or may have an impact on rates.

**R746-100-4. Filing and Service.**

Establish rules governing late-filed pleadings and testimony, and provide for a presumption of notice when pleadings or other filings are posted on the Commission's web site.

**R746-100-6. Appearances and Representation.**

Establish rules permitting individual utility customers, including corporate or business entities, and existing or proposed suppliers and contractors of services or commodities within the Commission's jurisdiction, to represent themselves if a person, or if a corporate or business entity, to be represented by non-attorney officers or employees. Adopt rules allowing for representation of established non-profit, public interest organizations that are permitted to intervene.

**R746-100-7. Intervention.**

Establish rules pertaining to the contents of petitions to intervene, and establish elements of standing conforming to Utah Supreme Court opinions and the Utah Rules of Civil Procedure, that expand intervention rights.

**R746-100-8. Discovery.**

Adopt rules for standard protective order provisions.

**R746-100-9. Pre-hearing conference and Pre-hearing Briefs.**

Adopt rules defining parties and the public's rights in pre-hearing conferences, in technical conferences and in settlement negotiations.

**R746-100-10. Hearing Procedure.**

Adopt rules clarifying and defining parties and witnesses' professional responsibilities at hearing, and in conducting cross-examination.

**R746-100-16. Sanctions.**

Adopt rules providing for monetary and non-monetary sanctions in the event attorneys, parties or witnesses violate statutes or rules governing Commission proceedings.

**R746-100-17. Commission Action Requests and Comments.**

Adopt rules that clarify and define parties' rights and responsibilities in responding to or commenting upon utility petitions or applications, and Commission consideration of those petitions and applications.